

REMARKS

Claims 1, 3-32 and 34-64, 66, and 67 are pending in the Application after entry of the amendments. Claims 2, 33, and 65 are cancelled. Claims 1, 3-5, 13, 16, 21-26, 29, 34-37, 45, 48, 53-58, and 61 are amended. Claims 66 and 67 are added. Support for the amendments can be found at least on page 10, lines 8-27; and FIG. 4b of the Specification as originally filed. No new matter is added by way of the amendments.

Regarding claim rejections under 35 U.S.C. § 102 (e).

Claims 1-15, 17-32, 34-47, and 49-64 were rejected under 35 U.S.C. 102 (e) as supposedly being anticipated by Alexander, U.S. Patent Number 6,177,931. Applicants respectfully traverse the rejections.

Applicants' now amended claim 34 recites:

A method for reporting determined relationships in at least one network device, comprising the steps of:

collecting event data pertaining to a network device;

determining: (i) which promotion is displayed on the network device, and (ii) a relationship between the collected event data and displaying the promotion, the determined relationship representing an effect of displaying the promotion on a viewer; and

providing a user interface for inquiring about the determined relationship between the collected event data and displaying the promotion.

Applicants' claimed invention collects event data pertaining to a network device (*see* Specification, page 9, lines 4-29, referring to FIG. 3) and determines a relationship between the collected event data and displaying a promotion (*see* Specification, FIG. 4b). An advertiser can inquire about the determined relationship to learn, for example, what promotions were viewed and what happened when the promotions were displayed. *See* Specification, page 10, lines 8-21. Thus for clarity of the claims, "determined relationship" is now recited. As such, Applicants' claimed invention provides an advertiser with more than just the viewing behavior of a viewer;

but also the effects on the viewer of displaying a promotion. *See* Specification, page 10, lines 13-15.

In stark contrast, Alexander merely describes learning information about a viewer from how the viewer interacts with an electronic programming guide (EPG) or TV. *See* Alexander, column 28, line 12-column 29, line 11 (collecting a viewer's interactions); column 29, lines 55-67 (from the viewer's interactions learned describing a viewer's preference); and column 30, lines 1-35 (from the viewer's interactions learned determining a viewer's characteristic). Alexander's merely learning a viewer's preference and characteristic from mere interactions with a program guide, falls short of Applicants' claimed invention and thus, does not gain the benefit of Applicants' claimed invention, namely, learning of the effects on the viewer of displaying the promotion. For example, learning that a viewer prefers basketball (a "viewer preference") and is generally interested in basketball (a "viewer characteristic") from the viewer's interaction with a program guide does not inform an advertiser how effective actually displaying a basketball ad during a basketball game was, as opposed to displaying the same ad during a soap opera. This viewer-orientated approach taken by Alexander simply cannot provide the same level of information on the effects of displaying promotion as Applicants' claimed invention.

In further contrast, contrary to Applicants' "determining which promotion is displayed on the network device," recited in now amended claim 34, Alexander merely describes identifying a promotion if and only if a viewer interacts with the EPG. *See* Alexander, column 28, lines 30-44. Even if Alexander did teach determining a relationship between collected event data and displaying a promotion, with Alexander there would be determined relationships for some advertisements and none for others depending on whether a viewer just so happened to interact with the EPG when the advertisement was displayed.

Sporadically collecting data surrounding displaying an ad, any relationship between the collected data and displaying the ad, if at all determined, is tenuous at best and insufficient to represent "an effect of displaying the [determined] promotion on the viewer," recited in now amended claim 34. If anything, contrasted with collecting data surrounding a viewer's interaction, collecting data surrounding displaying an ad to determine Applicants' relationship, provides Alexander with information extraneous to learning about a viewer.

As such, Applicants respectfully submit that it is apparent from the entire teachings of Alexander that its focus is a viewer and learning information about the viewer. Alexander does not contemplate a promotion, let alone “determining a relationship between the collected event data and displaying the promotion,” recited in Applicants’ now amended claim 34.

Accordingly, Applicants respectfully submit that now amended claim 34 overcomes the rejection under 35 U.S.C. § 102 (e) and the claim should be allowed.

The scope of Applicants’ corresponding system recited in now amended claim 1 is consistent with the scope of Applicants’ claimed method of claim 34. Support for amended claim 1 may be found at substantially the same citations as for amended claim 34. Accordingly, Claims 1 and 34 recite similar elements, and as such, should be allowed for similar reasons.

Claims 3-15 and 17-32 depend from now amended claim 1; and claims 33-47 and 49-64 depend from now amended claim 34, and as such, these claims should be allowed for the same reasons as the claims from which they depend.

Claim 2 is cancelled, and as such, the rejection of this claim is now moot.

Independent of the foregoing reasons, claims 4, 5, 21-26, 29-32, 36, 37, 53-58, and 61-64 should be allowed for at least the following reasons.

Applicants’ now amended claim 36 recites in part “determining the relationship from channel change events collected after the display of the promotion.” Emphasis added.

From the claim, it is clear that determinative of these subsequent steps is the promotion being displayed. Additionally, because Applicants’ claimed invention determines which promotion is displayed, for a given displayed promotion, a relationship between collected event data and the given promotion is determined separate and distinct from other relationships. Alexander fails to teach these features of Applicants’ claimed invention.

In stark contrast, Alexander merely describes that the interactions of a viewer with an EPG or TV, and not the display of a promotion, as the cause for subsequent steps. In fact, Alexander will not even identify a displayed promotion unless a viewer interacts with the EPG or TV. *See* Alexander, column 28, lines 30-44.

Alexander further describes recording information in the absence of viewer interaction, such as recording whether a viewer continued to watch an advertisement or changed channels. *See* Alexander, column 28, lines 53-59. Still, Alexander is an imperfect and imprecise solution.

Simply recording whether or not a viewer continued to view an advertisement does not enable Alexander to determine for a particular promotion displayed, a relationship between this promotion and collected event data recited in now amended claim 36.

Accordingly, Applicants respectfully submit that claim 36 as now amended overcomes the rejection under 35 U.S.C. § 102 (e) and the claim should be allowed.

Claims 4, 5, 29, 36, 37, and 61 recite similar elements, and as such, should be allowed for similar reasons.

Claims 30-32 depend from claim 29; and claims 62-64 depend from claim 61, and as such, should be allowed for the same reasons as the claims from which they depend.

Applicants' now amended claim 53 recites in part:

further comprising the step of configuring promotion acceptance and rejection events of promotions based on thresholds configured dynamically through a central console, the configured promotion acceptance and rejection events are events in which the promotions are accepted or rejected, respectively

where the underlined text indicates elements added by way of amendment.

Applicants' claimed invention recited in now amended claim 53 configures acceptance and rejection events of promotions. *See* Specification, page 10, lines 22-27. These configured events are based on thresholds. *Id.* The configured events may be configured for a selected network device or a group of network devices based on demographics of viewers, the physical capabilities of network devices, such as the memory of a device or the transport type of a device, and/or viewership patterns of viewers. *Id.* From the acceptance and rejection events of promotions, Applicants' claimed invention determines whether a displayed promotion is accepted or rejected. As such, with Applicants' claimed invention, a third party may inquire for example, whether accepting a displayed promotion resulted in a channel change, a change to a URL, or a different promotion. *See* Specification, page 10, lines 16-21.

In stark contrast, Alexander merely describes customizing a telecast of advertisements. *See* Alexander, column 32, lines 35-54. For example, Alexander customizes a telecast such that a BURGER KING advertisement is telecasted to viewers with a BURGER KING nearby while telecasting a MCDONALD'S advertisement to viewers with a MCDONALD'S nearby.

Alexander's customizing, however, will not tell neither BURGER KING nor MCDONALD'S whether viewers of their respective advertisement accepted or rejected their advertisements.

As such, Applicants respectfully submit that Alexander's customizing is not the same as Applicants' "configuring promotion acceptance and rejection events of promotions...the configured...events are events in which the promotions are accepted or rejected, respectively." Emphasis added.

Accordingly, Applicants respectfully submit that claim 53 as now amended overcomes the rejection under 35 U.S.C. § 102 (e) and the claim should be allowed.

Claims 21 and 53 recite similar elements, and as such, should be allowed for similar reasons.

Claims 22-26 depend from claim 21; and claims 54-58 depend from claim 53, and as such, should be allowed for the same reasons as the claims from which they depend.

Regarding claim rejections under 35 U.S.C § 103(a).

Claims 16, 33, 48, and 65 were rejected under 35 U.S.C. § 103(a) as supposedly being unpatentable over Alexander, U.S. Patent Number 6,177,931 in view of Ellis, U.S. Publication Number 2003/0020744. Applicants respectfully traverse the rejections.

Ellis merely describes tracking a viewer's viewing history and, like Alexander, fails to teach Applicants' "determining a relationship between the collected event data and displaying a promotion," recited in now amended claim 48. *See* Ellis, paragraphs [0010] and [0125] referring to FIG. 24 (tracking a viewer's viewing history, tracking programs watched by a viewer, tracking reminders scheduled by a viewer, tracking pay-per-view orders ordered by a viewer).

Furthermore, the Alexander and Ellis combination fails to teach that a relationship between collected event data and displaying a promotion is determined by counting an impression by using a trigger embedded in the displayed promotion. On the contrary, Ellis relies on a viewer selecting an ad in order to track ad usage. *See* Ellis, paragraph [0108]. Ellis teaches neither a displayed advertisement with an embedded trigger nor using such an embedded trigger to "determine a relationship between the collected event data and displaying the promotion," recited in now amended claim 48. As such, Alexander and Ellis neither separately nor in combination teach each and every element of Applicants' claimed invention.

Accordingly, Applicants respectfully submit that now amended claim 48 overcomes the rejection under 35 U.S.C. § 103(a) and should be allowed.

Claimed 16 and 48 recite similar elements, and as such, should be allowed for similar reasons.

Claims 33 and 65 are canceled, and as such, the rejections of these claims are now moot.

Regarding new claims 66 and 67.

To arrive at the aforementioned determined relationship, one embodiment of Applicants' claimed invention counts an impression by correlating the collected event data with a program schedule. *See* Specification, page 10, lines 28-29. Another embodiment counts an impression by using triggers embedded in the displayed promotion. *See* Specification, page 11, lines 2-3; see also FIG. 5. New claims 66 and 67 are directed to the former. Amended claims 16 and 48 are directed to the latter. Because claim 66 depends from claim 1; and claim 67 depends from claim 34, these claims should be allowed for the same reasons as the claims from which they depend.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

David J. Thibodeau, Jr.

Registration No. 31,671

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

Date: May 5, 2008